 IFW

66307-291-7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	PATENT
	)	
Anthony Fred MERCURIO et al.	)	GROUP: 1712
	)	
Serial No.: 10/702,041	)	EXAMINER: METZMAIER, Daniel S.
	)	
Filed: November 6, 2003	)	CUSTOMER NO. 25269
	)	
AEROSOL DELIVERY SYSTEM	)	CONFIRMATION NO. 7411

* * * * * * * * *

DECLARATION UNDER 37 CFR §1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Anthony Fred Mercurio and Derek Alfred Wheeler, hereby declare and state as follows:

1. We are the named co-inventors of the invention described and claimed in the above-identified U.S. patent application.

2. We have received and reviewed the Office Action of December 14, 2005 and have noted that examiner's rejection of claims 1-11 based on U.S. Patent No. 6,881,757 to Moodycliffe et al.

3. With respect to the examiner's rejection of claim 9, which is directed to the inventive aerosol composition as a polish, an air freshener, a repellant, a pre- or post-shave preparation, a shaving preparation, or a follicle softener, we assert that we invented this subject matter prior to

November 8, 2002, which is the effective date of the Moodycliffe et al. patent.

4. With respect to our statement in the foregoing paragraph, we attach copies of pages from our laboratory notebook kept in the normal course of our employment which shows that we created a biliquid foam polish formulation as early as September 14, 2001 (see documents 100-53, 100-55, 100-86, 100-87, 100-88, 100-89), an insect repellant formulation as early as March 21, 2002 (see documents 100-178, 100-224), a biliquid foam after-shave formulation as early as December 13, 2001 (see document 100-109), a biliquid foam shave formulation as early as September 8, 2002 (see documents 100-179, 100-225), a biliquid foam shave or furniture polish formulation as early as December 12, 2001 (see document 100-110), and a biliquid foam air freshener formulation as early as March 21, 2002 (see documents 100-179, 100-225).

We furthermore declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Anthony Fred Mercurio

6/19/06
Date

Derek Alfred Wheeler

16/06/06
Date

DC01\105557.1
ID\RHT

KEF 100 [illegible]

Double Bi-liquid Foam [illegible]

Project Promise 100-53-1

					40%	
		amount of product-->			40 <--in grams	
Bi-Liquid Foam		%	g			
Mineral oil	SC Johnson	49.10	19.64	7.856		
200 fluid 100cts	Dow Corning	20.00	8.00	3.2		
200 fluid 1000cts	Croda	20.00	8.00	3.2		
Laureth 4	House	0.90	0.36	0.144		
1%SLES in HOH	House	10.00	4.00	1.6	0.016	1.584
		100.00	40.00	16		

Working	Amount--->	100.00
1% Carbomer	8.00	8.00
bi liquid foam	40.00	40.00
phenonip	0.05	0.05
naoh	0.53	0.53
Water	51.42	51.42
	100.00	100.00

Formula 100-6-1	
Water	81.20
Carbomer	0.20
Mineral oil	9.82
PDMS 100 cts.	4.00
PDMS 1000 cts.	4.00
Laureth-4	0.18
SLES	0.02
preservative	0.05
NaOH	0.53
	100.00

Ingredient	%w/w
Water	63.25
Carbomer	0.08
Mineral oil	19.84
PDMS 100 cts.	8.00
PDMS 1000 cts.	8.00
Laureth-4	0.36
SLES	0.04
preservative	0.05
TEA	0.53
Fragrance	0.05
Total	100.00

Project Promise 100-53-2

					40%	
		amount of product-->			40 <--in grams	
Bi-Liquid Foam		%	g			
Mineral oil	SC Johnson	49.10	19.64	7.856		
200 fluid 100cts	Dow Corning	20.00	8.00	3.2		
200 fluid 1000cts	Croda	20.00	8.00	3.2		
Alkoxylated Fatty Alcoh	House	0.90	0.36	0.144		
1%SLES in HOH	House	10.00	4.00	1.6	0.016	1.584
		100.00	40.00	16		

Working	Amount--->	100.00
1% Carbomer	8.00	8.00
bi liquid foam	40.00	40.00
phenonip	0.05	0.05
naoh	0.53	0.53
Water	51.42	51.42
	100.00	100.00

Formula 100-6-1	
Water	81.20
Carbomer	0.20
Mineral oil	9.82
PDMS 100 cts.	4.00
PDMS 1000 cts.	4.00
Laureth-4	0.18
Alkoxylated Fatty Alcoh	0.02
preservative	0.05
NaOH	0.53
	100.00

Ingredient	%w/w
Water	63.25
Carbomer	0.08
Mineral oil	19.64
PDMS 100 cts.	8.00
PDMS 1000 cts.	8.00
Laureth-4	0.36
Alkoxylated Fatty Alcoh	0.04
preservative	0.05
TEA	0.53
Fragrance	0.35
Total	100.00

Both uniform RT & 50
#1 started to separate at RT
#2 [illegible] good, [illegible] good @ 50°C

9/14/2001

55

[illegible]

[illegible] formula [illegible]

Bi-Liquid Foam		Amount in Formula	% of FA		500
Mineral oil	Klearol	80.00	84.86	424.29	
200 fluid 100cts	Dow Corning	2.00	2.12	10.61	
200 fluid 1000cts	Dow Corning	2.00	2.12	10.61	
Laureth-4	House	0.85	0.90	4.50	
1%Alkoxylated Fatty Alcohol(aq)	House	9.43	10.00	50.00	
		94.28	100.00	500.00	

% in formula—> 94.28

Standard Formula	%
Water	14.93
Carbomer / TEA [illegible]	0.08
Mineral oil / [illegible]	80.00
DC-200 fluid 100cts	2.00
DC-200 fluid 1000cts	2.00
Laureth-4	0.85
Ethoxylated/Propoxylated fatty Alcohol	0.09
Phenonip	0.05
Total	100.00

Manufacturing		500
Water	1.67	8.35
2% Carbopol 980/TEA	4.00	20.00
Bi-Liquid Foam	94.28	471.40
Phenonip	0.05	0.25
	100.00	500.00

9/1[illegible]

[illegible]

* [illegible] SLES [illegible]

* [illegible] was made [illegible] w/ half the amount of [illegible] ICC-55-3 [illegible] stability

[illegible]

[illegible] 9/18/20[illegible]

Project Promise 100-86

		Amount in Formula	% in Foam	amount of product--> 120.000 <--in grams
			%	g
Bi-Liquid Foam	SC Johnson	10.000	52.41	62.89
Mineral oil	SCJ	7.000	36.69	44.03
SCJohnson 20cTs	House	0.172	0.90	1.08
Laureth 4	House	1.908	10.00	12.00
1% SLES(aq)		19.080	100.00	120.00

19.079685

Working	Amount-->	500.000
1% Carbomer/TEA	8.000	40.000
Bi-Liquid foam	19.080	95.398
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	71.870	359.352
	100.000	500.000

Ingredient	%w/w
Water	61.949
Carbomer	0.080
Mineral oil	10.000
PDMS 20 cts.	7.000
Laureth-4	0.172
SLES	0.019
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000

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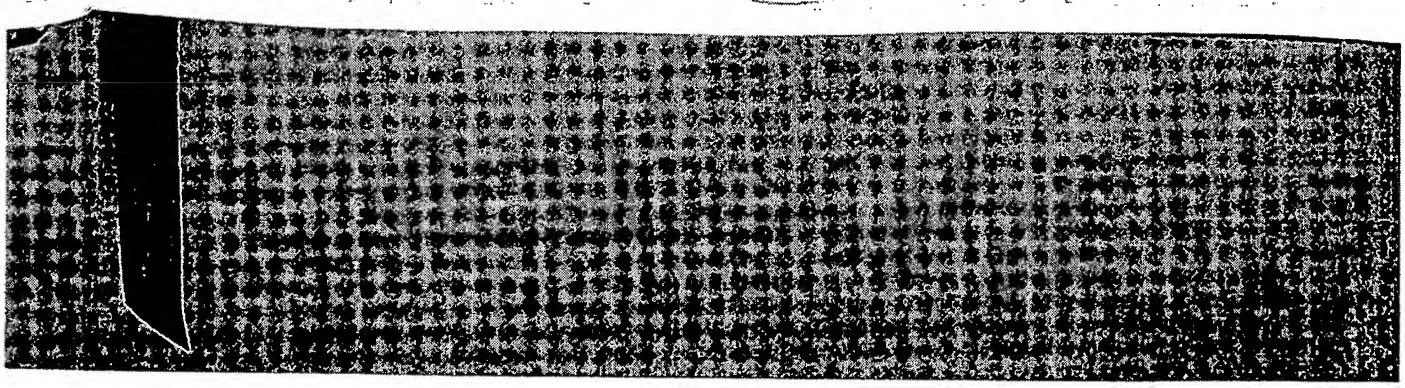
Project Promise 100-87

		Amount in Formula	% in Foam	amount of product-->	220.000 <--in grams
			%	g	
Bi-Liquid Foam					
Mineral oil	SC Johnson	30.000	72.24	158.94	
SCJohnson 20cTs	SCJ	7.000	16.86	37.08	
Laureth 4	House	0.374	0.90	1.98	
1% SLES(aq)	House	4.153	10.00	22.00	
		41.526	100.00	220.00	

41.52537486

Working	Amount-->	500.000
1% Carbomer/TEA	8.000	40.000
Bi-Liquid foam	41.526	207.632
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	49.424	247.118
	100.000	500.000

Ingredient	%w/w
Water	61.725
Carbomer	0.080
Mineral oil	30.000
PDMS 20 cts.	7.000
Laureth-4	0.374
SLES	0.042
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000



Project Promise 100-88

Bi-Liquid Foam		Amount in Formula	% in Foam	amount of product--->	280.000 <---in grams
			%	g	
Mineral oil-Klearol(Witco)	SC Johnson	40.000	75.83	212.32	
SCJohnson 20cTs	SCJ	7.000	13.27	37.16	
Laureth 4	House	0.475	0.90	2.52	
1% SLES(aq)	House	5.275	10.00	28.00	
		52.750	100.00	280.00	

52.74971942 <----Calculation

Working	Amount--->	500.000
1% Carbomer/TEA	8.000	40.000
Bi-Liquid foam	52.750	263.749
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	38.200	191.002
	100.000	500.000

Ingredient	%w/w
Water	51.612
Carbomer	0.080
Mineral oil	40.000
PDMS 20 cts.	7.000
Laureth-4	0.475
SLES	0.053
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000

Release.

OBJECTIVE: INCREASE MINERAL OIL LEVEL TO 30%

REF 100-89

TEST 1/T

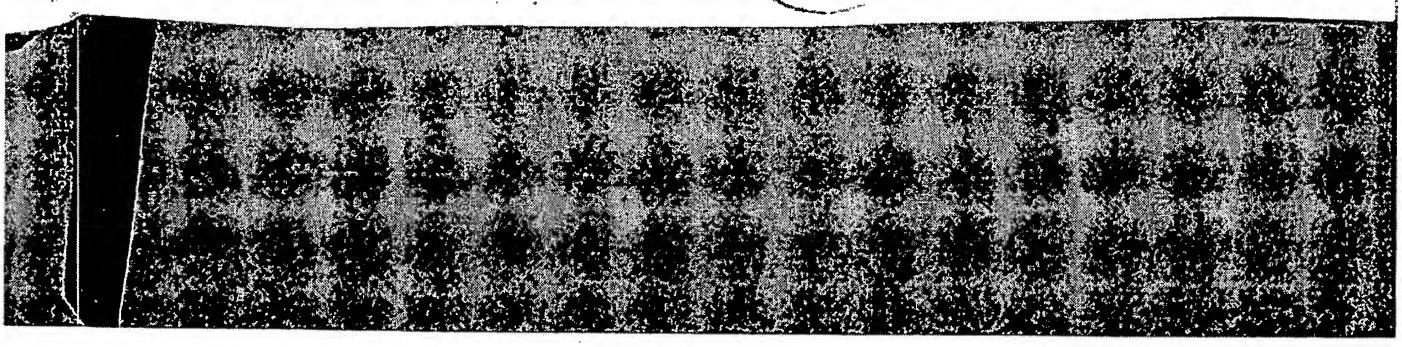
Project Promise 100-89

		Amount in Formula	% in Foam	amount of product ->	330.000 <---in grams
			%	g	
Bi-Liquid Foam					
Mineral oil-Klearol(Witco)	SC Johnson	50.000	78.16	257.92	
SCJohnson 20cTs	SCJ	7.000	10.94	36.11	
Laureth 4	House	0.576	0.90	2.97	
1% SLES(aq)	House	6.397	10.00	33.00	
		63.973	100.00	330.00	

63.97306397 <---Calculation

Working	Amount--->	500.000
1% Carbomer/TEA	8.000	40.000
Bi-Liquid foam	63.973	319.865
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	26.977	134.885
	100.000	500.000

Ingredient	%w/w
Water	41.500
Carbomer	0.080
Mineral oil	30.000
PDMS 20 cts.	7.000
Laureth-4	0.576
SLES	0.064
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000



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Objective:

6% DEET prototype spray lotion

3/21/2002

Spray DEET
100-173

	Formula Amount	% In Foam	Amount-->	190
DEET	6.000	33.41	63.48	
Triphenylmethicone	5.000	27.84	52.90	
Octyl Stearate	5.000	27.84	52.90	
PEG-30 Castor Oil	0.162	0.90	1.71	
1%SLES(aq)	1.796	10.00	19.00	
	17.957	100.00	190.00	
17.95735129				

Standard Formula	%	1000.00
Water	76.443	764.43
1% Ultrez	5.000	50.00
Titanium Dioxide	0.500	5.00
PA	17.957	179.57
liquid Germall Plus	0.100	1.00
Total	100.000	1000.00

3/21 02

100-224
DEET Creamy Lotion

Formula Amount		% in Formula	% in Foam	Amount(g) 150.00
Isopropyl Mristate	Protameen	5.00	18.56	27.84
DEET	SCJ	10.00	37.13	55.69
Diisopropyl Adipate	ISP	4.00	14.85	22.28
DC 245	Dow Corning	5.00	18.56	27.84
PEG 35 Castor Oil	Croda	0.24	0.90	1.35
SLES	Cognis	2.89	10.00	15.00
		26.94	100.00	150.00
26.936		0.24		

Manufacturing		%	Amount-->	500.00
Water		70.06	350.320	
Crothix Liquid	Croda	1.00	5.000	
Sepigel	Seppic	1.50	7.500	
Liquid Germall Plus	Isp	0.50	2.500	
Bi-Liquid Foam		26.94	134.680	
		100.00	500.000	

9/9
9/9

OBJECTIVE: POLSCT- ALCOHOL AFTER SHAVE GEL W/ SILVER ELECTROLYTE.

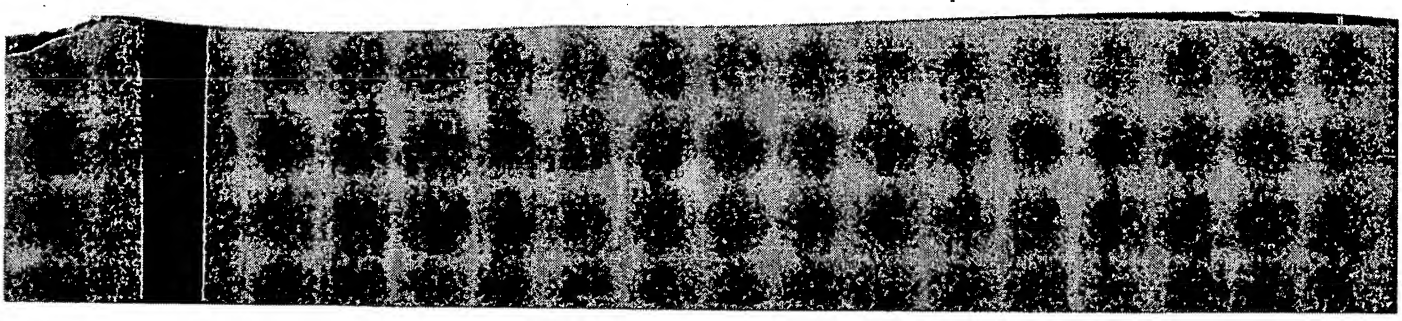
100-109

Alcohol After Shave Lotion(SCJ)

	Formula Amount	% in Foam	Amount-->	120
Caprylic/Capric Triglyceride	3.000	21.38	25.66	
Diisopropyl Adipate	4.000	28.51	34.21	
Gransil BBW-5	2.000	14.26	17.11	
DC200-5cTs	2.000	14.26	17.11	
Fragrance(red Rasberry)	1.500	10.69	12.83	
Peg 25 Hydrogenated Castor Oil	0.063	0.45	0.54	
Peg 30 Castor Oil	0.063	0.45	0.54	
Water	1.403	10.00	12.00	
	14.029	100.00	120.00	
14.0291807	0.126			
		Amount->		500
Water	37.221	186.10		
2% Ultrez/TEA	16.000	80.00		
Denatured Alcohol	20.000	100.00		
Glycerin	2.000	10.00		
Allantion	0.250	1.25		
2% Xanthan Gum	10.000	50.00		
Hydrolyzed Oat Protein	0.500	2.50		
PA	14.029	70.15		
	100.000	500.00		

PH of 622 final 5.81
adjust to
6.17

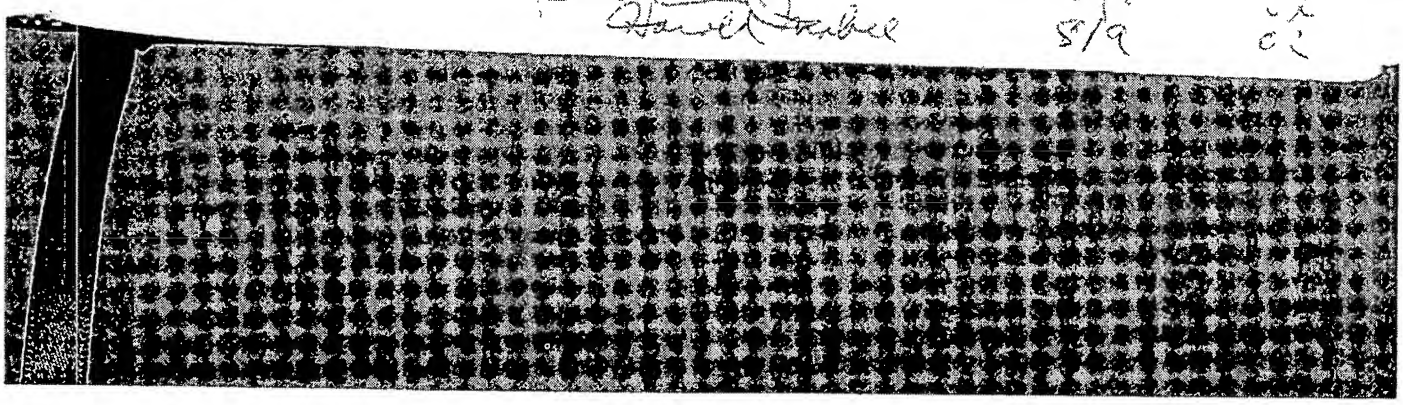
12/15



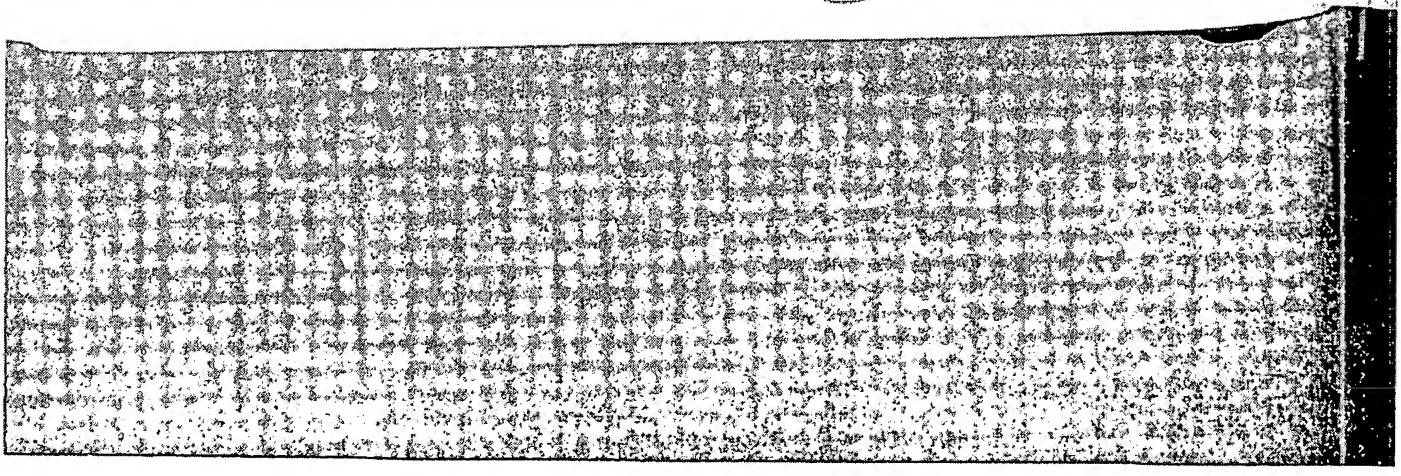
100-211
Shave Product Prototype

Formula Amount		% in Formula	% in Foam	Amount-->	100.00
Isopentane		10.000	89.100	89.10	
Oleth-2		0.101	0.900	0.90	
1% SLES/Water		1.122	10.000	10.00	
		11.223	100.000	100.00	
	11.223	0.101			

Manufacturing			500.00
Water	36.477	182.383	
Carbopol Aqua SF-1/TEA	7.000	35.000	
Disodium Lauryl Sulfosuccinate	24.500	122.500	
Ammonium Cocoyl Isothionate	2.500	12.500	
Glycerin	4.000	20.000	
Cocoamidopropyl Betaine	5.700	28.500	
Ammonium Lauryl Sulphate	8.100	40.500	
BP-Liquid Foam	11.223	56.117	
Liquid Germall Plus	0.500	2.500	
	100.000	500.000	



Standard Formula	%
Water	9.90
Isododecane	69.10
BYK-LP X 20191 Silicon	20.00
Laureth-4	0.90
SLES	0.10
Total	100.00



Objective of Formulas 100-245 Through 100-253

100-245

Objective is to get Fragrance into water phase and have an ingredient prevent the migration of fragrance to the Isopentane

Bi-Liquid Foam Reference 100-225(9/9/2002)

Formula Amount					Amount(g)
Ingredient	**Trade Name**	**Supplier**	% in Formula	% in Foam	**150.000**
Fragrance	Fragrance	SCJ	0.3000	89.100	133.650
PEG 35 Castor Oil	Etocas 35	Croda	0.0030	0.900	1.350
1%SLES(Aq)	Standopol-ES 2	Cognis	0.0337	10.000	15.000
			0.3367	100.000	150.000
0.337			0.0030		

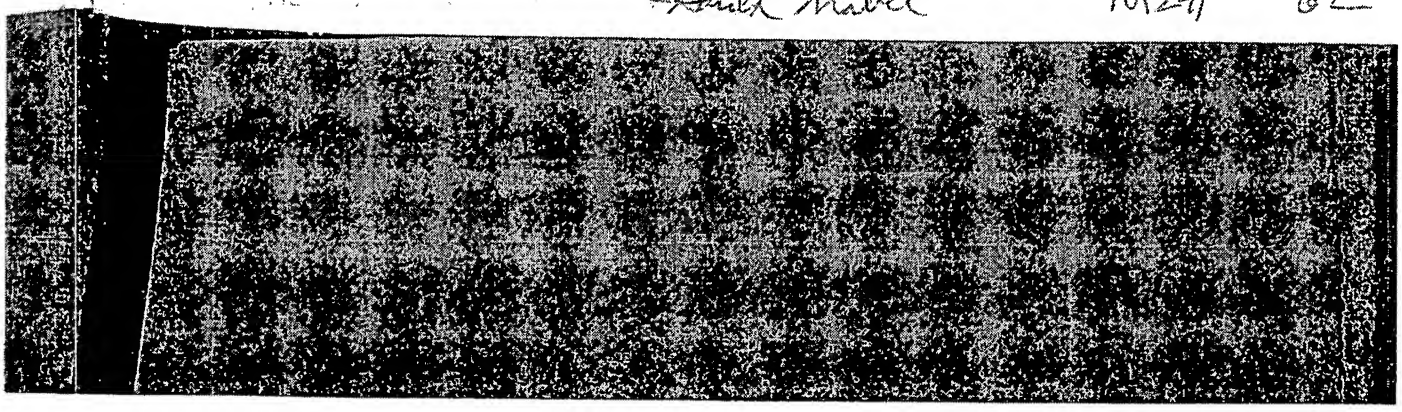
Manufacturing					
Ingredient	**Trade Name**	**Supplier**	Formula %	Amount->	60.000
Water	Water	House	89.6633	53.798	
Bi-Liquid Foam	Bi-Liquid Foam	House	0.3367	0.202	
Polyquaternium-11	Gafquat 755N	ISP	5.0000	3.000	
Isopentane	Isopentane	Triple Crown	5.0000	3.000	
			100.0000	60.000	

Procedure for Bi-Liquid Foam is standard as pertains to patent.
Procedure. Mix water Quat-11/add Bi-Liquid Foam mix/add Isopentane mix.

→ Combine Bi-Liquid Foam containing fragrance into water and isopentane mixing to get a homogenous system.

Made of water/ice

10/24/ 02



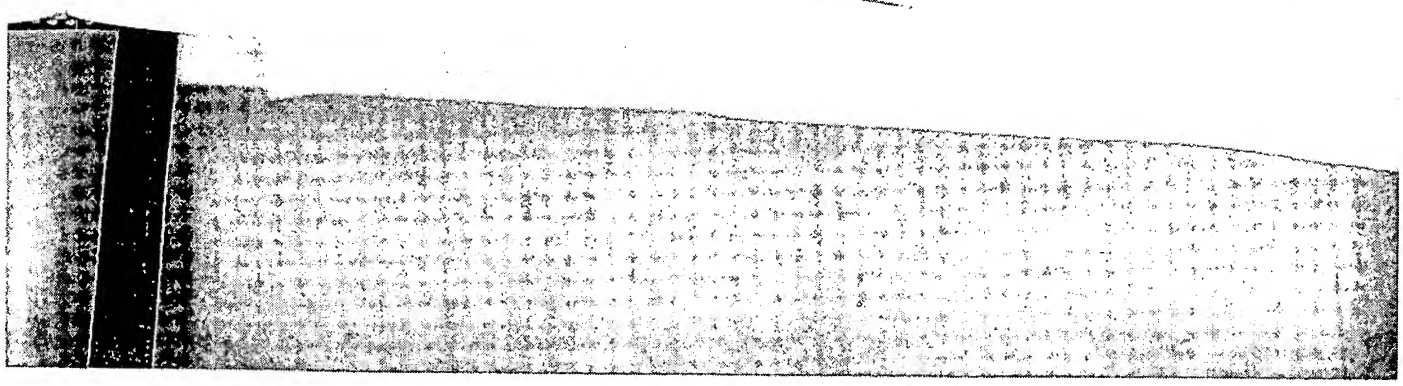
Objective:
SCJ Room Freshener
Make up Request:

Confidential 5/13/2002 9:46 AM

100-179
SCJ Room Freshener

		Formula Amount	% in Foam	Amount	10
SCJ Fragrance		0.300	89.10	8.91	
Laureth-4		0.003	0.90	0.09	
1%SLES(Aq)		0.034	10.00	1.00	
		0.337	100.00	10.00	
	0.336700337	0.003			
			Amount->	1000	
Water		70.493	704.93		
2% Carbomer 980/TEA		2.670	26.70	73.16	
Propellent		26.500	265.00	0.34	
PA		0.337	3.37	26.50	
		100.000	1000.00	100.00	

Standard Formula	%
Water	73.14218
Carbomer	0.05340
TEA	0.001100
Fragrance	0.30000
Laureth-4	0.00300
SLES	0.00034
Propellent	26.50000
Total	100.00000



100-225
Fragrance-Room Freshener

Formula Amount

		% in Formula	% in Foam	Amount(g)
Fragrance	IFF	10.00	89.10	150.00
PEG 35 Castor Oil	Croda	0.10	0.90	1.35
SLES	Cognis	1.12	10.00	15.00
11.223		11.22	100.00	150.00
		0.10